

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MERYEM ALI,

Plaintiff

v.

FACEBOOK, INC. and
ADEEL SHAH KHAN,

Defendants.

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CIVIL ACTION NO. _____

DEFENDANT FACEBOOK'S NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Facebook, Inc. (“Facebook”) removes this case from the 270th District Court of Harris County, Texas to the United States Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and Local Rule 81.

I. STATEMENT OF CASE

1. Plaintiff Meryem Ali (“Plaintiff”) commenced an action against Defendants styled *Mereyem Ali v. Facebook, Inc. and Adeel Shah Khan*, Cause No. 2014-42805, in the 270th District Court of Harris County, Texas.

2. Plaintiff has not made a jury demand.

3. Facebook was served with the complaint and summons on October 3, 2014. Mr. Adeel Shah Khan (“Khan”) has not been served with the state court petition and summons.

**II. THIS ACTION IS REMOVABLE UNDER
28 U.S.C. §§ 1332 AND 1441**

4. This action is removable to this Court under 28 U.S.C. § 1441 because this Court would have had original diversity jurisdiction over Plaintiff's claims, pursuant to 28 U.S.C. § 1332, had Plaintiff elected to file the action initially in federal court. The Plaintiff and Defendants are citizens of different states. The amount in controversy exceeds \$75,000, exclusive of interests and costs.

A. There Is Complete Diversity Between the Parties.

5. Facebook is a corporation organized and existing under the laws of the State of Delaware and maintains a principal place of business in the State of California. Following the "nerve center" test as adopted by the Supreme Court, Facebook is a citizen of California. *Hertz Corp. v. Friend* et al., 559 U.S. 77, 93-97 (2010).

6. Plaintiff's Original Petition alleges that co-defendant Khan can be served with process in the State of Illinois. Petition at ¶ 8. Based on the Petition and information and belief, Khan is a citizen of the State of Illinois.

7. Both at the time the lawsuit was filed, and at the time of removal, Defendants were and remain citizens of the states of California (Facebook) and Illinois (Khan) for the purpose of diversity jurisdiction.

8. Plaintiff alleges that she is "qualified in all ways to commence and maintain this action" in Texas state court. Petition at ¶ 6. Based on the Petition and information and belief, Plaintiff is a citizen of the State of Texas.

9. As all three parties are diverse, pursuant to 28 U.S.C. Section 1332(a), complete diversity exists between the parties.

B. The Amount in Controversy Exceeds \$75,000.

10. This is a civil action. Plaintiff seeks in her Original Petition (a copy of which is filed herewith) damages from Defendants in the amount of \$123,000,000.00. Petition at ¶ 10. Without conceding the availability of damages in this case, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

11. By virtue of complete diversity of citizenship and the amount in controversy, the United States courts have original jurisdiction.

III. FACEBOOK HAS SATISFIED THE ADDITIONAL REQUIREMENTS FOR REMOVAL

A. Facebook's Notice of Removal Is Timely.

12. By service upon its registered agent on October 3, 2014, Facebook first received a copy of the Original Petition in this action. This Notice is filed within thirty (30) days of such receipt as required by 28 U.S.C. Section 1446(b).

B. Defendant Khan Has Not Been Served, Therefore His Consent Is Not Required.

13. Facebook is filing this Notice of Removal, and despite repeated attempts, Facebook's counsel has been unable to speak with Defendant Khan. Pursuant to the state court docket and to the best of Facebook's knowledge, Plaintiff has not obtained service on Defendant Khan. Pursuant to 28 U.S.C. § 1446(b)(2)(A), "when a civil action is removed solely under section 1441(a), all defendants who have been *properly joined and served* must join in or consent to the removal of the action" (emphasis added). As Defendant Khan has yet to be served, Facebook may proceed with removal despite Khan's lack of consent to this notice.

C. Compliance with Local Rule 81.

14. In accordance with 28 U.S.C. § 1446(a) and Local Rule 81, copies of all of the papers and pleadings on file with the state court and the state docket sheet are attached. Specifically, the following documents are filed herewith: Exhibit A, Executed Citation to Facebook, Inc.; Exhibit B, Civil Process Request; Exhibit C, Civil Case Information Sheet; Exhibit D, Civil Process Pick-up form; Exhibit E, Plaintiff's Original Petition; Exhibit F, Plaintiff's First Amended Petition; Exhibit G, Plaintiff's Second Amended Petition; Exhibit H, State District Court's Civil Docket; (Facebook was not served with the First or Second Amended Petition and no answer by either Defendant has been made in the state court proceedings); Exhibit I, Defendant Facebook Inc.'s Notice to Plaintiff of Removal to United States District Court; Exhibit J, List of All Counsel of Record.

D. Removal to This Court Is Proper Under 28 U.S.C. § 1441(a).

15. This Court is the appropriate court to which this matter should be removed because this Court is the United States District Court for the district and division embracing the place where the removed action was pending. *See* 28 U.S.C. Section 1441(a).

E. Notice Is Given to Plaintiff and the State Court.

16. Pursuant to 28 U.S.C. Section 1446(d), Facebook is today serving this Notice of Removal on Plaintiff and will file a copy of this Notice with the Clerk of the District Court of Harris County, Texas.

WHEREFORE, Facebook hereby removes this action from the District Court of Harris County, Texas, to this Court.

PERKINS COIE, LLP

s/ Ann Marie Painter

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CERTIFICATE OF SERVICE

On October 24, 2014 I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel for parties of record via U.S. certified mail, return receipt requested at the address below.

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s/ Wyatt Maxwell
